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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,753	01/11/2002	Scott Sarnikowski	100.070US30	7257

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EXAMINER

SAM, PHIRIN

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/043,753

Applicant(s)

SARNIKOWSKI ET AL.

Examiner

Phirin Sam

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Isfeld et al (U.S. Patent 5,802,278) in view of Curtis et al (U.S. Patent 5,774,689).

Isfeld et al discloses the invention (**claims 1 and 6**) as claimed including a service unit for a telecommunications network that communicates computer data over a distribution network (see col. 8, line 11-16) using orthogonal carriers, the service unit comprising:

- (a) a bridge/router (see Fig. 1, col. 6, lines 2-6), including:
  - (a1) interface logic (see Fig. 1, elements 13-20, col. 6, lines 5-25), coupled to the multicarrier modem, that is adapted to receive a data dial tone from the multicarrier modem indicating that at least one data channel has been established as a data path for communicating data to the head

end and that is adapted to control the placement of data in the at least one data channel (see Fig. 1, col. 6, lines 6-25).

(a2) a data link controller (see Fig. 4, col. 7, lines 55-64), coupled to the interface logic, that encodes/decodes data (see Fig. 1, col. 6, lines 5-25).

(a3) a local area network controller (see Fig. 5, elements 87 and 88, col. 7, lines 32-35), coupled to the data link controller (see Fig. 5, col. 7, lines 55-64).

(a4) a local area network port (see Fig. 1, elements 13-20, col. 6, lines 6-14) coupled to the local area network controller (see Fig. 5, elements 87 and 88, col. 7, lines 32-35).

Isfeld et al does not disclose a multicarrier modem. However, Curtis et al discloses the modem (see Figs. 1 and 12, col. 2, lines 8-19, and col. 29, lines 34-56). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the modem teaching by Curtis et al with Isfeld et al. The motivation for doing so would have been to provide to access network read on col. 29, lines 54-55. Therefore, it would have been obvious to combine Curtis et al and Isfeld et al to obtain the invention as specified in the claims 1 and 6.

**Regarding claims 2, 3, and 7,** Isfeld et al discloses the data link control comprises an HDLC controller (see Fig. 4, col. 7, lines 55-64).

**Regarding claim 4,** Isfeld et al discloses the LAN controller comprises an Ethernet controller (see Fig. 5, elements 87 and 88, col. 7, lines 32-35).

**Regarding claims 5 and 8,** Isfeld et al discloses the service unit further including a router (see Fig. 1) coupled between the LAN controller (Fig. 5, elements 87 and 88, col. 7, lines 32-35) and the LAN port (see Fig. 1, elements 13-20, col. 6, lines 6-14).

*Conclusion*

4. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Phirin Sam whose telephone number is (703) 308 - 9294. The Examiner can normally be reached on Monday - Friday from 8:30AM - 4:00PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Douglas W. Olms can be reached at (703) 305 - 4703. The fax number for the organization where this application or proceeding is assigned is (703) 872 - 9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217 - 9197 (toll-free).

Respectfully submitted,

Date: July 21, 2004



Phirin Sam  
Patent Primary Examiner